

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

Case No. 97-CR-225

JOE NATHAN LEVERETTE,

Defendant.

DECISION AND ORDER

Before the Court is Defendant Joe Leverette's (Leverette) motion to reduce his sentence pursuant to Amendment 782 of the United States Sentencing Guidelines which lowered the penalties for most drug offenses by reducing most offense levels on the 2D1.1 Drug Quantity Table by two levels. The Court may reduce a defendant's sentence pursuant to 18 U.S.C. § 3582(c) if two criteria are satisfied: (1) the U.S. Sentencing Commission has lowered the applicable guideline range, and (2) the reduction is consistent with applicable policy statements issued by the Commission.

Unfortunately for Leverette, the first criterion for a reduction has not been met in his case. While Amendment 782 reduces his base offense level from 42 to 38, Leverette's guideline range is not changed by this reduction—his amended guideline range remains 360 months' to life imprisonment. The Court is not authorized under § 3582 to modify the term of imprisonment imposed "if ... the amendment does not have the effect of lowering the

defendant's applicable guideline range" USSG § 1B1.10 app. note 1(A). Accordingly, his motion must be denied.

Leverette's motion raises additional contentions regarding his sentence: (1) his criminal history score should be retroactively changed based on the February 2015, Los Angeles County, California Superior Court order re-designating his felony conviction as a misdemeanor pursuant to California Proposition 47; and (2) his post-conviction rehabilitation efforts warrant a downward departure. "A § 3582(c)(2) hearing is narrow in scope and should not be treated as a resentencing." *United States v. Stevenson*, 749 F.3d 667, 669 (7th Cir. 2014) (citing *Dillon v. United States*, 560 U.S. 817, 825-26 (2010)). Thus, these additional contentions are not properly raised by the instant motion and, therefore, will not be addressed.

IT IS HEREBY ORDERED THAT:

Leverette's motion to reduce sentence reduce his sentence pursuant to Amendment 782 of the USSG (ECF No. 236) is **DENIED**.

Dated at Milwaukee, Wisconsin, this 27th day of May, 2016.

BY THE COURT:


HON. RUDOLPH T. RANDA
U.S. District Judge